

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

I.W.,

Plaintiff,

v.

No. CV 20-807 CG/SMV

CITY OF CLOVIS
POLICE DEPARTMENT, et al.,

Defendants.

ORDER PERMITTING PLAINTIFF TO PROCEED ANONYMOUSLY

THIS MATTER is before the Court *sua sponte*. In Plaintiff's Complaint, (Doc. 1), filed on August 12, 2020, he conceals his identity, instead proceeding under the initials "I.W." Proceeding anonymously is not contemplated by the Federal Rules of Civil Procedure. Rather, Rule 10(a) requires that the title of a complaint "name all the parties," and Rule 17(a) prescribes that "[a]n action must be prosecuted in the name of the real party in interest." Nonetheless, the Tenth Circuit has recognized there may be cases in which "exceptional circumstances" warrant permitting a party to proceed anonymously. *Femedeer v. Haun*, 227 F.3d 1244, 1246 (10th Cir. 2000) (quoting *M.M. v. Zavaras*, 139 F.3d 798, 800 (10th Cir. 1998)). Whether a plaintiff may proceed anonymously is subject to the discretion of the trial court. *Zavaras*, 139 F.3d at 802. In exercising that discretion, the court must "weigh[] the plaintiff's claimed right of privacy against the countervailing public interest." *Id.* at 803.

In the Complaint, Plaintiff explains that his "initials are used to protect his privacy because he was a minor at the time [of the incident]." *Id.* at 1. The parties' *Joint Motion for Protective Order*, (Doc. 23), filed on December 3, 2020, which the Court granted,

likewise contemplated protecting Plaintiff's identity from public disclosure. See (Doc. 24 at 1). Given the parties' agreement, as well as the interest in maintaining the privacy of juvenile criminal records, the Court finds anonymity outweighs the public interest in favor of openness in this case. The Court further finds no prejudice to Defendants—i.e., Defendants have not been hampered in their efforts to investigate and defend against Plaintiff's allegations. Therefore, the Court will grant Plaintiff permission to proceed anonymously in this matter.

IT IS THEREFORE ORDERED that Plaintiff may proceed anonymously in this matter.

IT IS FURTHER ORDERED that Plaintiff shall file, by no later than **May 31, 2021**, a complaint **under seal** that places on the record Plaintiff's real name as the party in interest. See *W.N.J. v. Yocom*, 257 F.3d 1171, 1172 (10th Cir. 2001) ("If a court grants permission [to proceed anonymously], it is often with the requirement that the real names of the plaintiff[] be disclosed to the defense and the court but kept under seal thereafter."). In all other filings, Plaintiff may proceed as "I.W."

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal flourish extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE